

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Kendall Green,)	C/A No. 8:06-0967-CMC-BHH
)	
Plaintiff,)	
)	
v.)	OPINION AND ORDER
)	
C/O William McBride; and Jon Ozmint, Director)	
of SCDC,)	
)	
Defendants,)	
)	

Plaintiff, proceeding *pro se*, filed this action pursuant to 42 U.S.C. § 1983 on March 29, 2006. Plaintiff was a pretrial detainee incarcerated at the Marlboro County Detention Center in Marlboro County, South Carolina, when the incident occurred that prompted this complaint. He is currently an inmate incarcerated in the Lee Correctional Institute of the South Carolina Department of Corrections. Plaintiff filed a motion for partial summary judgment on May 25, 2006, and Defendants filed a motion for summary judgment on July 14, 2006. Plaintiff was advised of the summary judgment procedure and the serious consequences if he failed to respond to the motion adequately. Plaintiff filed his response on August 18, 2006.

In accordance with this court's order of reference and 28 U.S.C. § 636(b), this matter comes before the court with the Report and Recommendation of United States Magistrate Judge Bruce Howe Hendricks.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *See Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of any portion of the Report and Recommendation of the Magistrate Judge to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. *See* 28 U.S.C. § 636(b). The court reviews the Report and Recommendation only for clear error in the absence of an objection. *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that "in the absence of a timely filed objection, a district court

need not conduct a *de novo* review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.”) (citation omitted).

On December 14, 2006, the Magistrate Judge issued a Report recommending that the Defendants’ motion for summary judgment be granted; that Plaintiff’s motion for partial summary judgment be denied; and that Plaintiff’s claims be dismissed with prejudice. The Magistrate Judge advised Petitioner of the procedures and requirements for filing objections to the Report and Recommendation and the serious consequences if he failed to do so. Petitioner has filed no objections and the time for doing so has expired.

After reviewing the Complaint, the record, and the Report and Recommendation of the Magistrate Judge, the court finds no clear error. Accordingly, the Report and Recommendation of the Magistrate Judge is adopted and incorporated by reference.

IT IS HEREBY ORDERED that Defendants’ motion for summary judgment is **GRANTED**; and it is

FURTHER ORDERED that Plaintiff’s motion for partial summary judgment is **DENIED** and that Plaintiff’s claims are *dismissed with prejudice*.

IT IS SO ORDERED.

S/ Cameron McGowan Currie
CAMERON MCGOWAN CURRIE
UNITED STATES DISTRICT JUDGE

Columbia, South Carolina
January 25, 2007

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